

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 15-4268 JB

ANGEL DELEON, JOE LAWRENCE
GALLEGOS, EDWARD TROUP, a.k.a.
“Huero Troup,” LEONARD LUJAN,
BILLY GARCIA, a.k.a. “Wild Bill,”
EUGENE MARTINEZ, a.k.a. “Little
Guero,” ALLEN PATTERSON,
CHRISTOPHER CHAVEZ, a.k.a. “Critter,”
JAVIER ALONSO, a.k.a. “Wineo,”
ARTURO ARNULFO GARCIA, a.k.a.
“Shotgun,” BENJAMIN CLARK, a.k.a.
“Cyclone,” RUBEN HERNANDEZ;
JERRY ARMENTA, a.k.a. “Creeper,”
JERRY MONTOYA, a.k.a. “Boxer,”
MARIO RODRIGUEZ, a.k.a. “Blue,”
TIMOTHY MARTINEZ, a.k.a. “Red,”
MAURICIO VARELA, a.k.a. “Archie,”
a.k.a. “Hog Nuts,” DANIEL SANCHEZ,
a.k.a. “Dan Dan,” GERALD ARCHULETA,
a.k.a. “Styx,” a.k.a. “Grandma,” CONRAD
VILLEGAS, a.k.a. “Chitmon,” ANTHONY
RAY BACA, a.k.a. “Pup,” ROBERT
MARTINEZ, a.k.a. “Baby Rob,” ROY
PAUL MARTINEZ, a.k.a. “Shadow,”
CHRISTOPHER GARCIA, CARLOS
HERRERA, a.k.a. “Lazy,” RUDY PEREZ,
a.k.a. “Ru Dog,” ANDREW GALLEGOS,
a.k.a. “Smiley,” SANTOS GONZALEZ;
PAUL RIVERA, SHAUNA GUTIERREZ,
and BRANDY RODRIGUEZ,

Defendants.

ORDER¹

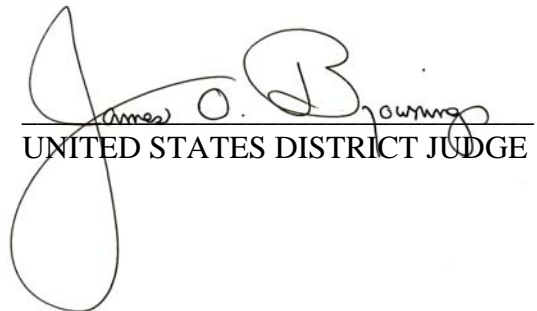
THIS MATTER comes before the Court on: (i) Defendant Daniel Sanchez's Motion to Dismiss Case for Government's Outrageous Misconduct and Irreparable Violation of Brady v. Maryland, filed March 1, 2018 (Doc. 1841)("Sanchez MTD"); (ii) Defendant Daniel Sanchez's Motion for Judgment of Acquittal (FRCP Rule 29) or, in the Alternative, a New Trial (FRCP Rule 33), filed October 9, 2018 (Doc. 2408)("Sanchez NTM"); (iii) Defendant Carlos Herrera's Motion for New Trial and Notice of Joinder, filed October 15, 2018 (Doc. 2413)("Herrera Motion"); (iv) Gallegos' Rule 29 Motion for Judgment of Acquittal [sic] or in the Alternative Motion for New Trial with Regard to Counts Four and Five, filed October 15, 2018 (Doc. 2415)("Gallegos Joint Motion"); (v) Defendant Billy Garcia's Motion to Produce Post-Conviction Discovery and for In Camera Review, filed October 15, 2018 (Doc. 2416)("B. Garcia Motion"); (vi) Andrew Gallegos' Motion for Judgment of Acquittal or in the Alternative Motion

¹This Order disposes of: (i) Defendant Daniel Sanchez's Motion to Dismiss Case for Government's Outrageous Misconduct and Irreparable Violation of Brady v. Maryland, filed March 1, 2018 (Doc. 1841); (ii) Defendant Daniel Sanchez's Motion for Judgment of Acquittal (FRCP Rule 29) or, in the Alternative, a New Trial (FRCP Rule 33), filed October 9, 2018 (Doc. 2408); (iii) Defendant Carlos Herrera's Motion for New Trial and Notice of Joinder, filed October 15, 2018 (Doc. 2413); (iv) Gallegos' Rule 29 Motion for Judgment of Acquittal [sic] or in the Alternative Motion for New Trial with Regard to Counts Four and Five, filed October 15, 2018 (Doc. 2415); (v) Defendant Billy Garcia's Motion to Produce Post-Conviction Discovery and for In Camera Review, filed October 15, 2018 (Doc. 2416); (vi) Andrew Gallegos' Motion for Judgment of Acquittal or in the Alternative Motion for New Trial, filed October 15, 2018 (Doc. 2418); (vii) Defendant Joe Lawrence Gallegos' Rule 29 Motion for Judgment of Acquittal or in the Alternative Motion for New Trial on Count 1, filed October 15, 2018 (Doc. 2419); (viii) Edward Troup's Motion for New Trial, filed October 15, 2018 (Doc. 2420); (ix) Defendant Anthony Ray Baca's Motion for New Trial and Notice of Joinder, filed October 15, 2018 (Doc. 2421); and (x) Arturo Arnulfo Garcia's Motion for Judgment of Acquittal or in the Alternative, Dismissal Pursuant to Rule 12(b)(2), filed October 16, 2018 (Doc. 2422). The Court will issue, however, Memorandum Opinions at a later date more fully detailing its rationale for this decision.

for New Trial, filed October 15, 2018 (Doc. 2418)(“A. Gallegos Motion”); (vii) Defendant Joe Lawrence Gallegos’ Rule 29 Motion for Judgment of Acquittal or in the Alternative Motion for New Trial on Count 1, filed October 15, 2018 (Doc. 2419)(“J. Gallegos Motion”); (viii) Edward Troup’s Motion for New Trial, filed October 15, 2018 (Doc. 2420)(“Troup Motion”); (ix) Defendant Anthony Ray Baca’s Motion for New Trial and Notice of Joinder, filed October 15, 2018 (Doc. 2421)(“Baca Motion”); and (x) Arturo Arnulfo Garcia’s Motion for Judgment of Acquittal or in the Alternative, Dismissal Pursuant to Rule 12(b)(2), filed October 16, 2018 (Doc. 2422)(“A.A. Garcia Motion”). The Court held evidentiary hearings on December 17 and 18, 2018. After hearing evidence and Defendant Daniel Sanchez’ argument, the Court stated that “Mr. Sanchez got a fair trial,” and that it would deny the Sanchez MTD and the Sanchez NTM. Transcript of Motion Proceedings Volume I at 178:5-6 (taken December 17, 2018)(Court), filed January 4, 2019 (Doc. 2479)(“Dec. 17 Tr.”). After taking evidence and hearing Defendant Carlos Herrera’s argument, the Court noted that “there was considerable evidence introduced against him, and that nothing here would have changed to any significant degree or materially the strategy of the case,” Dec. 17 Tr. at 232:2-5 (Court), and indicated its inclination to deny the Herrera Motion, see Dec. 17 Tr. at 232:7-9 (Court). As revealed at the hearing, none of the text messages or telephone calls that Defendant Billy Garcia requests that Plaintiff United States of America produce for the Court to conduct an in camera review have been kept, and B. Garcia conceded that, therefore, he is no longer asking for production or for in camera review. See Dec. 17 Tr. at 81:14-82:9 (Castle, Court). After Defendants Joe Lawrence Gallegos and Andrew Gallegos argued in support of their joint motion, the Court noted that it carefully considered the alleged lack-of-interstate-nexus issue they raise, but that the United States presented additional

evidence at trial than the Court knew of pretrial and believed that the United States had crossed the line that the Court drew pretrial -- so the Court was inclined to deny the Gallegos Joint Motion. See Transcript of Motion Proceedings Volume II at 149:14-150:15 (taken December 18, 2018)(Court), filed January 4, 2019 (Doc. 2480)(“Dec. 18 Tr.”). A. Gallegos also presented evidence and argument in support of the A. Gallegos Motion, but the Court did not see a confrontation problem at trial as A. Gallegos alleged and stated that it is inclined to deny the A. Gallegos Motion. See Dec. 18 Tr. at 132:15-133:6 (Court). After Defendants Edward Troup and Joe Lawrence Gallegos argued on behalf of their similar motions, the Court relayed that it thought long and hard about whether to allow witness Michael Jaramillo to testify, and about how it severed the different Counts for trial. See Dec. 18 Tr. at 77:11-79:18 (Court). The Court stated that, even if it made an error with the jury instructions, that error did not infect the trial, and it is not inclined to grant the Troup Motion or the J. Gallegos Motion. See Dec. 18 Tr. at 79:23-80:13 (Court). After Defendant Anthony Ray Baca introduced evidence and argued on behalf of his motion, the Court stated its inclination to deny the Baca Motion, because it just raises additional information that does not require a new trial. See Dec. 18 Tr. at 7:5-14 (Court). After Defendant Arturo Arnulfo Garcia argued for his motion, the Court indicated its inclination to deny the A.A. Garcia Motion, leave A.A. Garcia’s conviction in place, and let the United States Court of Appeals for the Tenth Circuit deal with the legal issues. See Dec. 18 Tr. at 107:21-25 (Court). Accordingly, for the reasons stated on the record at the hearings cited in this Order, the Court denies the Sanchez MTD, the Sanchez NTM, the Herrera Motion, the Gallegos Joint Motion, the B. Garcia Motion, the A. Gallegos Motion, the J. Gallegos Motion, the Baca Motion, and the A.A. Garcia Motion.

IT IS ORDERED that the requests in: (i) Defendant Daniel Sanchez's Motion to Dismiss Case for Government's Outrageous Misconduct and Irreparable Violation of Brady v. Maryland, filed March 1, 2018 (Doc. 1841); (ii) Defendant Daniel Sanchez's Motion for Judgment of Acquittal (FRCP Rule 29) or, in the Alternative, a New Trial (FRCP Rule 33), filed October 9, 2018 (Doc. 2408); (iii) Defendant Carlos Herrera's Motion for New Trial and Notice of Joinder, filed October 15, 2018 (Doc. 2413); (iv) Gallegos' Rule 29 Motion for Judgment of Acquittal [sic] or in the Alternative Motion for New Trial with Regard to Counts Four and Five, filed October 15, 2018 (Doc. 2415); (v) Defendant Billy Garcia's Motion to Produce Post-Conviction Discovery and for In Camera Review, filed October 15, 2018 (Doc. 2416); (vi) Andrew Gallegos' Motion for Judgment of Acquittal or in the Alternative Motion for New Trial, filed October 15, 2018 (Doc. 2418); (vii) Defendant Joe Gallegos' Rule 29 Motion for Judgment of Acquittal or in the Alternative Motion for New Trial on Count 1, filed October 15, 2018 (Doc. 2419); (viii) Edward Troup's Motion for New Trial, filed October 15, 2018 (Doc. 2420); (ix) Defendant Anthony Ray Baca's Motion for New Trial and Notice of Joinder, filed October 15, 2018 (Doc. 2421); and (x) Arturo Arnulfo Garcia's Motion for Judgment of Acquittal or in the Alternative, Dismissal Pursuant to Rule 12(b)(2), filed October 16, 2018 (Doc. 2422), are denied.



UNITED STATES DISTRICT JUDGE

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